



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Docket No. MSHA-2022-0019 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2022-0019.
2. *Fax:* 202-693-9441.
3. *Email:* petitioncomments@dol.gov
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452,

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@dol.gov (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2022-005-C

Petitioner: Ramaco Resources, LLC, PO Box 219, Verner, West Virginia, 25650.

Mine: Berwind Deep Mine, MSHA ID No. 46-09533 located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.364(b)(2), Weekly examination.

Modification Request: The petitioner requests a modification of 30 CFR 75.364(b)(2) to permit an alternative method of examining the return air course in its entirety.

The petitioner states that:

(a) The current standard would require miners to traverse a ladder, staircase, or other similar means of travel for approximately 70 feet vertically, which creates unnecessary slip, trip and fall hazards that could result in a serious injury.

The petitioner proposes the following alternative method:

(a) The operator will install a return air shaft that will connect the Pocahontas 4 Seam (mined above) return air course to the Pocahontas 3 Seam (mined below) return air course. The air shaft will be approximately 70 feet in length and will connect to the two seams without intermixing with any other mined-out areas or air courses. No additional mine voids will be connected throughout the development of this shaft.

(b) Once the air shaft is completed, a certified person designated by the operator for the purposes of conducting examinations under Subpart D – Ventilation of 30 CFR part 75 will travel the return airway from the section to a location near the top of the air shaft (Pocahontas 4 Seam) and will take air readings to determine the quantity of air entering the air shaft and will take a reading with a MSHA-approved multi-gas detector to determine the quality of air entering the shaft. The certified person will also complete the weekly examinations required by 30 CFR 75.364(b)(8).

(c) The remainder of the return air course examination will be conducted beginning at the bottom of the shaft (Pocahontas 3 Seam) and continuing throughout the return air course to the surface. The examination will include air quality readings near the bottom of the shaft.

(d) The examination of the return airway will be conducted weekly with the examination results recorded in the logbook located on the surface.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director,

Office of Standards, Regulations, and Variances.

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